

STATE OF OHIO                    )  
  ) SS.  
CUYAHOGA COUNTY            )

AFFIDAVIT

I, BRIAN DONAHUE, after being duly sworn state the following:

1. I am over eighteen years of age and am competent to testify to the matters set forth herein upon my own personal knowledge, all of which are true.

2. Alex Kowalski, Peter Kowalski, Debra Kowalski, and David Griffiths have no ownership interest in Tetrapoly, LLC ("Tetrapoly").

3. Alex Kowalski, Peter Kowalski, Debra Kowalski, and David Griffiths have no involvement in the operation of Tetrapoly.

4. Contrary to Plaintiff's allegation (see Opposition Brief, pp. 3-4), I was never involved in any meeting with Alex Kowalski, Andrew Kowalski, Tim Carter and Shawn Stine to discuss an "opportunity" to get involved with a new company called Tetrapoly.

5. I met personally with Alex Kowalski when he terminated my employment with Maxxum Group, Inc. ("Maxxum"), and he offered to lease a building and equipment that another business owned to me and other former Maxxum employees.

6. After this offer was made by Alex Kowalski to Maxxum employees, myself and four other former Maxxum employees – Shawn Stine, Tim Carter, Andrew Kowalski, and Matthew Kowalski – met and decided to start our own business.

7. The five of us split ownership amongst ourselves and chose the name "Tetrapoly."

8. There was never any discussion with Alex Kowalski regarding “moving the Ketter Resin Group” business to Tetrapoly (see Opposition Brief, p. 4). After establishing Tetrapoly, Tim Carter, Andrew Kowalski, Matthew Kowalski, did arrange for a meeting with a company named Home Design Products dba Resin Partners. We met with them on September 3, 2009, and they signed a contract to do business with Tetrapoly, LLC. Neither Alex Kowalski nor anyone else associated with Maxxum was involved in arranging for this meeting, participated in this meeting, or conducted business with Home Design Products dba Resin Partners on behalf of Tetrapoly after the contract was signed by the parties.

9. Upon information and belief, Maxxum continued to operate through December 2009.

11. At least two other plastics companies – like Tetrapoly – were started by former Maxxum employees after Maxxum terminated their employment, but these two companies have not been sued by Plaintiff.


12. Besides the members of Tetrapoly who were former Maxxum employees, Tetrapoly has no employees who were also employees of Maxxum.

13. I was never an officer of Maxxum despite being instructed to use the title Vice President of Finance.

14. I never created or supplied C.H. Robinson with “inaccurate financial statements” (see Opposition Brief, p. 9). I was instructed by Peter Kowalski to forward audited financial statements to Plaintiff.

15. There was no transfer of assets from Maxxum to Tetrapoly.

Further Affiant Sayeth Naught.

  
BRIAN DONAHUE

Sworn to before me and subscribed in my presence this 27 day of May, 2010.

  
NOTARY PUBLIC

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Renee I. Fetzer  
Notary Public, State of Ohio  
My comm. exp. Aug. 3, 2013